IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 11424 of 2004

Between:

Jasthi Lakshmanna, S/o Venkatappa,
R/o Gantapuram , Bathalapalli Mandal, Ananthapur District.

... PETITIONER

AND

1. The Mandal Revenue Officer, Bathalapalli Mandal, Ananthapur District.

2. Y. Ramaiah, S/o Tirupathaiah,
R/o Gantapuram, Bathalapalli Mandal, Ananthapur District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring and setting aside the Notice dated 27-6-2004 in Rc.No.126/2004 on the file of the first respondent herein, as illegal, arbitrary, without jurisdiction and contrary to the provisions of A.P. Water, Land and Trees Act, 2002; Award costs.

Counsel for the Petitioner: MR.N.RANGA REDDY

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: MR.A.RAVINDER REDDY

The Court made the following :

ORDER:

The petitioner assails the order, dated 27.06.2004, of the first respondent, whereby and where under, the petitioner was directed not to draw the water from the bore well dug by the petitioner in Sy.No.125 of Apparascheruvu. The said order is purportedly issued under the provisions of A.P. Water, Land & Trees Act, 2002 (for brevity "the Act"). This Court admitted the writ petition and granted interim order for the reason that in the absence of a notification under Sections 9 and 11 of the Act, there cannot be any restriction on the digging of bore wells. The second respondent moved W.V.M.P.No.2709 of 2004. As the controversy is in narrow compass, the writ petition itself was heard finally and is being disposed of with the consent of the learned counsel for the petitioner and the learned counsel for the opposite party.

The only submission made by the learned counsel for the petitioner, Sri N. Ranga Reddy, is that no notice was issued by the Mandal Revenue Officer before passing the impugned order. The same is not denied. A reading of Section 15 of the Act would show that even before passing a provisional order under Section 15(1) of the Act, the Mandal Revenue Officer is required to give a notice to the person who allegedly contravened the provisions of the Act. Further, as observed by this Court while passing orders in W.P.M.P.No.14532 of 2004, the area has not yet been notified under Sections 9 and 11 of the Act, and therefore, the Mandal Revenue Officer has to take this into consideration.

Therefore, the writ petition is disposed of, giving liberty to the Mandal Revenue Officer to issue notice to the petitioner, obtain explanation from the petitioner and pass appropriate orders, within a period of two weeks, from the date of receipt of a copy of this order. There shall be no order as to costs.

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(V.V.S.RAO, J.)

7th October, 2004.

Note: Copy by 11.10.2004.

(B/o) pan

To

1. The Mandal Revenue Officer, Bathalapalli Mandal, Ananthapur District.
2. Two C.Cs to the Govt.Pleader for Revenue,

High Court buildings, Hyderabad. (Out)

3) Two C.D. copies.